

**COMMENTS OF THE NORTHERN CALIFORNIA  
POWER AGENCY, SACRAMENTO MUNICIPAL UTILITY  
DISTRICT, AND MODESTO IRRIGATION DISTRICT ON THE  
MARKET ADVISORY COMMITTEE JUNE 1, 2007 DRAFT  
RECOMMENDATIONS FOR DESIGNING A GREENHOUSE GAS  
CAP-AND-TRADE SYSTEM FOR CALIFORNIA.**

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The Northern California Power Agency<sup>1</sup> (NCPA), Sacramento Municipal Utility District (SMUD), and Modesto Irrigation District (MID) offer these comments on the draft recommendations of the Market Advisory Committee (MAC) to the California Air Resources Board, issued on June 1, 2007, entitled *Recommendations for Designing a Greenhouse Gas Cap-and Trade System for California* (“Draft Report”).

NCPA/SMUD/MID applaud the MAC’s efforts in preparing the Draft Report and appreciate the opportunity to provide the MAC with these comments. NCPA, SMUD and MID are all publicly owned electric utilities, as that term is defined in the Public Utilities Code section 9604, with diverse energy portfolios and a vested interest in the myriad details surrounding implementation of Assembly Bill (“AB”) 32, the Global Warming Solutions Act of 2006.

**I. THE DRAFT REPORT IS PROPERLY SILENT ON ALLOCATION  
METHODOLOGIES**

One issue of particular interest to NCPA/SMUD/MID under any cap-and-trade program is the means by which any allowances will be allocated. The Draft Report recommends that an auction be the primary means by which allowances are distributed to the market. However, the Draft Report also recognizes that there are instances in which allowances should be distributed through other means, including allocation of allowances directly to generators or retail energy providers. (Draft Report at p. 44.) The Draft Report, however, does not address or propose a specific methodology for *how* those free (or non-

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<sup>1</sup> NCPA is a Joint Powers Agency whose members include the cities of Alameda, Biggs, Gridley, Healdsburg, Lodi, Lompoc, Palo Alto, Redding, Roseville, Santa Clara, and Ukiah, as well as the Bay Area Rapid Transit District, Port of Oakland, the Truckee Donner Public Utility District, and the Turlock Irrigation District, and whose Associate Members are the Plumas-Sierra Rural Electric Cooperative, and the Placer County Water Agency.

auctioned) allowances should be allocated. NCPA/SMUD/MID believe that this omission is proper, and that any discussion regarding allocation methodology for non-auctioned allowances is premature.

Implementation of AB 32 is a complex process with a number of issues and alternatives that must be sorted out and assessed. Even the notion of whether or not there should be a cap-and-trade program is not uncontroversial.<sup>2</sup> As a practical matter, all stakeholders in this process are expending considerable resources staying abreast of this process and working with the various regulatory agencies actively pursuing the myriad aspects of AB 32 implementation simultaneously. The complexity of the process necessitates that “first tier” issues are resolved first. Accordingly, while discussions regarding a methodology for allocating non-auctioned allowances is of paramount importance to all stakeholders – NCPA/SMUD/MID being no exception – it is first necessary to have some clarity regarding the amount and formulation of allowances that will be directly allocated.<sup>3</sup>

Thus, before debate regarding the proper allocation of allowances is engaged, it is necessary to have some level of resolution on *whether* the state will allocate the allowances. NCPA/SMUD/MID believe strongly that any discussion regarding an allocation methodology for allowances at this time is premature. Further, while the MAC has received a broad range of comments regarding potential cap-and-trade programs, those comments have not led to any robust discussion regarding non-auction allowance allocation. The Draft Report lists general principles for allowance allocation (Draft Report at p. 52), and encourages allowance distribution to be consistent with those principles. These principles, however, are discussed with regard to the pros and cons of an auction versus allocation design. While those same principles will also be relevant to the “second tier” discussion on how to apportion allowances among the various power utilities should non-auction allowances be established. Until such time as the stakeholders have had an opportunity to

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<sup>2</sup> Further, as the Draft Report recognizes, the electric utility industry in California is already significantly constrained in resource selection due to other state mandates.

<sup>3</sup> This is of particular import relative to economic sectors included in the cap and their relative exposure to non-market state mandated resource constraints.

fully investigate allocation methodologies, any recommendations on that subject would work to hinder rather than facilitate development of an ultimate solution.

## **II. OTHER COMMENTS**

### **A. Market Cost Effectiveness for Publicly Owned Facilities**

The Draft Report discusses market effectiveness (Draft Report at pp. 45-46). This discussion assumes an idealized separation of electrical generators, electrical retailers and retail providers. However, publicly owned utilities often are structured as essentially vertically integrated utilities where major generation resources are owned by and largely serve native load. Specific consideration of publicly owned utilities as vertically integrated utilities should therefore be accommodated in any market/allowance structure. This should also specifically acknowledge the not-for-profit cost based nature of publicly owned utilities' structure and relationship with their consumer-owners.

### **B. Climate-Related Policies**

The Draft Report discusses several climate-related actions that California has initiated to address global warming and GHG emissions, including Senate Bill 1368 regarding a greenhouse gas emissions performance standard for California's electric retail providers. The Draft Report correctly references the emissions performance standard adopted by the California Public Utilities Commission applicable to investor owned utilities and other CPUC-jurisdictional entities. NCPA/SMUD/MID ask that the Draft Report be revised to also recognize that on May 23, 2007, the California Energy Commission likewise adopted an emissions performance standard of 1,100 pounds of carbon dioxide per megawatt hour. The regulations adopted by the California Energy Commission are applicable to publicly owned utilities.

### **C. Load Serving Entities Defined**

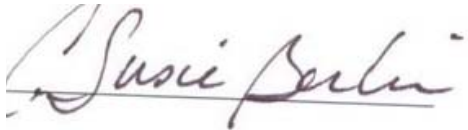
NCPA/SMUD/MID encourage the MAC to revise the Draft Report to reflect the terms and definitions for California's retail electric service providers used in the Public Utilities code. As a practical matter load serving entities (LSEs) are not defined to include publicly owned utilities, but rather include only the investor owned utilities that

are directly regulated by the California Public Utilities Commission. NCPA/SMUD/MID understand that the MAC uses the term “LSEs” to include all electric retail providers; referring to these entities as “electric retail providers” would provide greater clarity and less confusion in the context of discussions regarding the electricity sector.

### **III. CONCLUSION**

NCPA/SMUD/MID appreciate the opportunity to provide these comments to the MAC on the Draft Report and welcome any questions or inquiries regarding any of the matters addressed herein.

Respectfully submitted,

A handwritten signature in dark ink, appearing to read "Susie Berlin", written over a horizontal line.

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